

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

**T. Weston, Inc.
D/B/A Ridgeley Saloon,**

Plaintiff,

v.

Case No. 2:04CV56

**Mineral County, West Virginia
and County Commission of
Mineral County, West Virginia, et al.,**

Defendants.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO WITHDRAW,
INSTANTER, MOTION FOR LEAVE TO FILE A SECOND AMENDED COMPLAINT**

On October 25, 2007, Plaintiff, T. Weston, Inc., d/b/a Ridgeley Saloon (Plaintiff), filed a Motion for Leave to Withdraw, Instanter, Motion for Leave to File a Second Amended Complaint [Docket Entry 50]. Plaintiff moved for leave to withdraw, instanter, its motion for leave to File a Second Amended Complaint [Docket Entries 40 and 41] because Plaintiff has obtained Defendants' consent to file a Second Amended Complaint that differs from that Second Amended Complaint now under consideration by the District Court and the filing of which is acceptable to all parties.

Upon consideration of all which, the Court, hereby, **GRANTS**, Plaintiff's Motion for Leave to Withdraw, Instanter, Motion for Leave to File a Second Amended Complaint [Docket Entry 50]. Plaintiff is permitted to file a Second Amended Complaint, which is acceptable to all parties, and Plaintiff's Motion to File Second Amended Complaint, filed July 12, 2007 [Docket Entries 40 and 41] is **DENIED**, as moot. Additionally, this Court's Opinion/Report and Recommendation Re: Plaintiff's Motion to Amend Complaint, entered September 27, 2007, and bearing Docket Number 45, is withdrawn, as having been rendered moot by the above ruling.

It is so **ORDERED**.

The District Clerk for the United States District Court for the Northern District of West Virginia is directed to provide a copy of this order to all counsel of record.

DATED: October 31, 2007

/s *John S. Kaul*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE